

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG

BOEHRINGER INGELHEIM
PHARMACEUTICALS INC., BOEHRINGER
INGELHEIM INTERNATIONAL GMBH,
BOEHRINGER INGELHEIM CORPORATION,
and BOEHRINGER INGELHEIM PHARMA
GMBH & CO. KG,

Plaintiffs,

v.

MYLAN PHARMACEUTICALS INC.,
MYLAN INC., MYLAN LABORATORIES
LIMITED,

Defendants.

C.A. No. 1:20-cv-19 (TSK) (lead)

Consolidated with
C.A. No. 1:20-cv-90

JOINT STIPULATION AND [PROPOSED] ORDER TO MODIFY SCHEDULE

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs Boehringer Pharmaceuticals Inc., Boehringer Ingelheim International GMBH, Boehringer Ingelheim Pharma GMBH & Co. KG (collectively “Boehringer”) and Defendants Mylan Pharmaceuticals Inc., Mylan Inc., Mylan Laboratories Limited (collectively “Defendants”), subject to approval of the Court, that the Scheduling Order entered by the Court on May 21, 2024 (Dkt. 250) be modified as reflected in the below chart. The parties believe good cause exists for an extension to allow the parties to address outstanding disputes, and Boehringer withdraws, without prejudice, their pending motions at Dkt. 233 and 257-2. Mylan believes that a trial decision by or around November 2, 2025 would be optimal because November 2, 2025 is the earliest date on which Mylan could receive final approval for its generic drug products. Mylan further believes that a trial decision by or around November 2, 2025 may avoid potential preliminary injunction and/or temporary restraining order filings. Boehringer responds that final approval for Mylan’s generic drug products is not contingent on Mylan receiving a favorable judgment in this action. Boehringer

states that this stipulation is limited to the schedule modifications for supplemental discovery, which are subject to Boehringer's pending motions, and any potential impact on the timing of the Court's decision is not addressed by or within the scope of this stipulation.

Based on the parties' stipulations and agreement, the pending motions at Dkt. 233 and 257-2 are DISMISSED WITHOUT PREJUDICE as MOOT. The Court ORDERS that the following modified dates shall control the further proceedings of this matter and the Court will enter a separate order setting forth the specific dates and times for the Final Pre-Trial Conference and Trial.

<u>Event</u>	<u>Current Deadline</u>	<u>Proposed Modification</u>
Close of Fact Discovery (limited to addressing any outstanding issues)		November 15, 2024
Supplemental Opening Expert Reports* (for which the parties have the burden of proof)		December 13, 2024
Supplemental Responsive Expert Reports* and Deadline to Provide Expert Deposition Availability		January 17, 2025
Supplemental Reply Expert Reports* (limited to secondary considerations)		February 7, 2025
Close of Expert Discovery	August 16, 2024	March 7, 2025
Joint Final Pretrial Order	September 13, 2024	April 2, 2025
Final Pre-Trial Conference	October 7, 2024, at 11:00 A.M.	April 9, 2025 (or as soon thereafter as possible for the Court)
Trial	October 21, 2024, at 9:30 A.M.	April 16, 2025 (or as soon thereafter as possible for the Court)

* The parties acknowledge that opening, responsive, and reply expert reports have been previously served in this action. The supplemental fact discovery and subsequent expert reports (opening, responsive, and reply) referenced herein shall be limited to the issues that Boehringer has alleged were untimely disclosed and any issues related thereto, which are subject to Boehringer's pending motions (Dkt. 233 and 257-2), and any responses by either party to such issues.

Respectfully submitted,

August 20, 2024

/s/ David R. Pogue

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Attorneys for Defendants

ENTERED this ____ day of _____, 2024.

Thomas S. Kleeh, Chief Judge
Northern District of West Virginia